

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

March 11, 2010

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.: 05od-145

OAHU

Sale of Reclaimed Land to Gwenette Higa; Rescind Prior Board Action of August 12, 2005, Item D-15, Kaneohe, Koolaupoko, Oahu, Tax Map Key: (1) 4-5-007:seaward of 023.

APPLICANT:

Gwenette Higa, single.

LEGAL REFERENCE:

Section 171-53, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Kaneohe, Koolaupoko, Oahu, identified by Tax Map Key: (1) 4-5-007:seaward of 023, as shown on the attached map labeled Exhibit A.

AREA:

2,953 square feet, more or less.

ZONING:

State Land Use District: Conservation

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: No

CURRENT USE STATUS:

Vacant and unencumbered.

CONSIDERATION:

One-time lump sum payment of fair market value to be determined by independent or staff appraiser, subject to review and approval by the Chairperson; provided that if the reclaimed land has been filled in or made with the prior approval of government authorities, and not otherwise filled in or made contrary to the public interest, it may be disposed of at fair market value of the submerged land, but if the reclaimed land has been filled in or made otherwise, it shall be disposed of at the fair market value of the reclaimed or fast land.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

Not applicable. Subject lands are to be conveyed to abutting landowner(s) and will become privately owned land at that point.

DCCA VERIFICATION:

Individual owner, not applicable.

APPLICANT REQUIREMENTS:

Applicant shall be required to pay for an appraisal to determine the one-time payment of fair market value for the reclaimed land.

REMARKS:

On August 12, 2005, item D-15, the Board approved the issuance of a term, non-exclusive easement for landscaping and filled land purposes to the applicant. Map work and appraisal for the easement have been completed and an offer letter was sent to the applicant. Recently, applicant provided aerial photo dated 1961 showing the subject land and requested to purchase the reclaimed land from the State.

Pursuant to Section 171-53(b), HRS, the Board may sell reclaimed land to the abutting owner if the land was filled as of June 12, 1962 and the Board finds that its disposition is not prejudicial to the best interest of the State, community or area in which such reclaimed land is located. Further, if the reclaimed land was filled in or made with the approval of government authorities and not otherwise filled in or made contrary to the public interest, the reclaimed land is valued as submerged land. Otherwise, it must be valued as reclaimed or fast land.

The aerial photo mentioned above proved the existence of the subject land prior to June 12, 1962. Staff does not believe selling the subject reclaimed land would be prejudicial to the State's interest as the subject land lacks legal access to any public highway. At the

time of writing this submittal, staff cannot locate any government authorization issued over the subject land. If any evidence of governmental authorization is located subsequent to the Board approval of today's request, staff will bring such authorization to the attention of the appraiser.

Applicant has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

Office of Conservation and Coastal Lands, Division of Aquatic Resources, Board of Water Supply, Department of Parks and Recreation have no comments/objections on the request.

Office of Hawaiian Affairs has no objection and cites the requirement of Act 176 compliance and appraisal at full market value.

Department of Health, Department of Hawaiian Home Lands, State Historic Preservation Division, Commission on Water Resources Management, Department of Planning and Permitting, and Department of Environmental Services have not responded as of the suspense date.

Compliance with Act 176, Session Laws of Hawaii 2009, including holding informational briefing and obtaining concurrent resolution from the legislatures will be obtained after the Board approve today's request.

Further, staff requests the Board rescind its prior approval dated August 12, 2005, item D-15.

There are no other pertinent issues or concerns and staff has no objection to the request.

RECOMMENDATION:

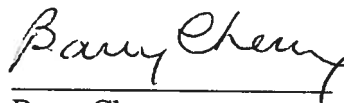
That the Board, subject to the Applicant fulfilling all of the Applicant requirements listed above:

1. Rescind its prior approval dated August 12, 2005, item D-15.
2. Authorize the subject requests to be applicable in the event of a change in the ownership of the abutting parcel described as Tax Map Key: (1) 4-5-007-023, provided the succeeding owner has not had a lease, permit, easement or other disposition of State lands terminated within the last five (5) years due to non-compliance with such terms and conditions.
3. Find that the sale of the subject reclaimed land is not prejudicial to the best

interest of the State, community or area in which subject reclaimed land is located.


4. Authorize the sale of the subject reclaimed land to Gwenette Higa covering the subject area under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - a. The standard terms and conditions of the most current deed or grant (reclaimed land) form, as may be amended from time to time;
 - b. Review and approval by the Department of the Attorney General; and
 - c. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Barry Cheung
District Land Agent

APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson 